

Speech by the President of the Japan Federation of Bar Associations

[to be presented at the workshop on sexual slavery perpetrated by military forces, which is to take place on June 17, 1993]

1. Introduction to the Japan Federation of Bar Associations

Good Afternoon ladies and gentlemen. Please let me introduce myself. My name is Saburo Abe, I am the President of the Japan Federation of Bar Associations.

First of all, I would like to thank you for giving me the opportunity to speak at this seminar today.

The Japan Federation of Bar Associations, or JFBA, is an organization which all attorneys who practice legal services in Japan are required to join. This means that all attorneys in Japan are members of the JFBA regardless of their ideas and beliefs. At present, JFBA has some 14,900 member attorneys and 52 local bar associations.

The JFBA considers that the protection of fundamental freedom and human rights and achievement of social justice are its most important missions. In order to carry out this mission, the JFBA established Human Rights Protection Committee as an important standing committee. This committee conducts investigations, and submits recommendations and suggestions concerning various human rights issues. It also comments on important bills.

The Human Rights Protection Committee has previously investigated the problem of "women who were forced into sexual slavery by military forces", which is the topic of today's discussion. I should like to use this opportunity and briefly discuss the activities of this committee and the future commitment of the JFBA to this issue.

2. The JFBA's basic standpoint on the war compensation issue

Let me first explain the reason why the JFBA has come to play an active role in the current discussion on how to deal with the issue of war compensations.

The war caused by Japan inflicted grave and irreparable damage and suffering on the citizens of many countries around the world, especially the nations of Asia, as well as people of Japan itself. Now, voices claiming compensation for the grave damage inflicted by the war are being raised all over Asia. These voices are growing louder and louder, and JFBA is determined to deal with these claims most seriously. This is because we believe that it is necessary for the people of Japan to recognize more strongly that the war was an assault upon the people of Asia by Japan.

At the same time, the JFBA considers it necessary to deal with these issues not as that of state-to-state reparations, but as an issue involving a most serious form of

human rights violation, in the light of the basic ideas of international rules concerning human rights, and thus as a problem of the rights of individuals. We also believe that the human rights issues should be considered beyond national borders. Furthermore, when treating these problems as human rights issues, the already established principles of international laws should be strictly observed.

From this point of view, JFBA thinks that it would not be fulfilling its mission to protect human rights if it does not play an active role in the solution of serious human rights problems which were caused by Japan in Asia. We also believe that the borders that divide nations no longer exist as far as human rights issues are concerned.

3. Activities of JFBA on the war compensation issue

In 1981, the Human Rights Protection Committee of JFBA published its opinions concerning the repatriation of 43,000 Korean nationals who were forcibly taken to Sakhalin Island during the World War II and were unable to return to Korea even after the war ended, and also on the issue of compensation and relief to the Korean victims of the atomic bombings. At the international human rights symposium held in Kobe in November 1981, JFBA treated the issue of war compensation as one of the most important topics to be discussed.

Recently, JFBA also held a symposium entitled "Concerning the war compensation issue - actual damage and the principle of compensation" on July 11, 1992 and compiled a report on the result of this symposium. Still another seminar was held on December 10 of the same year under the theme of "War and human rights - considering the war compensation issue from the legal perspective". At this seminar the problem of compensation for damage and suffering inflicted by the war was examined from the viewpoint of international law by guest specialists, including the Special Rapporteur to the United Nations Human Rights Subcommission, Theo van Boven. A report on this seminar is due to be published in the near future.

In this context, one must bear in mind that one of the most urgent problems concerning the war compensation issue is the necessity to find facts on the actual sufferings of victims. For this purpose, JFBA already dispatched fact-finding teams to such countries as North and South Korea, China, the Philippines, Malaysia, Singapore and Indonesia in order to investigate the actual conditions of life under the Japanese colonial rule, genocide, forced conscription, sexual atrocities, plundering of property and destruction of cultural objects, which were committed by the Japanese army during the military occupation. During these fact-finding operations, our teams were given opportunities to hear directly from former so-called "comfort women", witnesses of genocides, forced labourers who were dragooned into service and members of groups who are actively dealing with these problems. The same kind of investigation is scheduled to be conducted in Taiwan and Australia as well. Moreover, the results of our

investigations will be summarized in a report which is due to be published before the opening of symposium to be held on October 28 this year during the Conference on the Protection of Human Rights organized by the JFBA.

These investigations brought to light the horrifying conditions which so-called "comfort-women" were forced to endure, and provided detailed descriptions of genocide which were committed in many areas of Asia. The findings also show that those genocides resulted from racial discrimination.

Based on such findings and the related legal consideration now in progress, JFBA plans to issue a declaration on the problem of war compensation at the Conference on the Protection of Human Rights on October 29, 1993.

4. The issue of "comfort women"

Now, I should like to take up the issue of so-called "comfort women". It is now widely known that during wartime, "comfort stations", in other words military brothels, were set up where Japanese troops were stationed. The purpose of these "comfort stations" was to provide Japanese soldiers with sexual "comfort", that is to say, for disposal of their sexual needs. However, until recently the Japanese government has maintained the position that the Japanese military was not involved in the establishment of such "comfort stations" and that they were operated by the private-sector.

However, under strong pressures urging thorough investigations into this matter, on July 6, 1992, the Japanese government's Cabinet Councilor's Office of Foreign Affairs finally released an investigation report entitled "On the issue of so-called comfort women from the Korean Peninsula". This report confirms that both the Japanese Imperial Army and the government were extensively involved in the operation of the military brothels. At a later stage, the Japanese government went so far as to admit that there had been some cases in which "comfort women" were dragooned into service against their will, but it has until now failed to admit the fact of coercion in all cases.

With regard to the problem of coercion, two aspects have to be considered. The first is the question of whether "comfort women" were forcibly recruited against their will; the second is the question of whether they were forced to provide sexual services to Japanese soldiers after they were taken to the so-called "comfort stations". Concerning the first aspect, former military personnel and other persons have testified to the use of physical force in the recruitment of "comfort women". Furthermore, at the "international public hearing on the issue of war compensation by Japan", which was held last year with the support of the JFBA, former "comfort women" also testified that they were forced into becoming prostitutes. A former Dutch "comfort woman" gave an especially detailed account of the use of coercion. Even in cases where women were not recruited by physical force, but by deception, such as being recruited as nurses or waitresses,

one can say that this too is a case of coercion, since there can be no doubt that these women would have refused had they known the truth.

Moving on to the second question of whether "comfort women" were forced to have sex at the so-called "comfort stations", it is indeed impossible to think that at these "comfort stations", which were located in militarily occupied territory and operated by the Japanese military, the women were able to act according to their own will. Inside occupied territories, the military is the absolute power. Further, these "comfort stations" were located at remote war fronts, far away from the "comfort women's" original sphere of life and even if one assumes that the women were allowed to go outside the "comfort stations", it would not have been possible for them to escape. "Comfort women" could not have possibly resisted every time they were forced to render sexual services, which was indeed nothing else but rape. There were accounts made by former "comfort women" which give evidence that in cases where women resisted having sex with soldiers, they were simply raped, sometimes by being threatened with swords, and that sometimes they were forced to have sex with tens of soldiers a day.

The investigation carried out by the JFBA, which I mentioned earlier, also revealed that all the women interviewed who worked as prostitutes for the military were forced to do so. One can thus draw the conclusion that the life of "comfort women" at the so-called "comfort stations" and the sexual services they provided were coerced under slave-like conditions.

5. Compensation to the victims

As I pointed out earlier, the JFBA is not only concerned with the issue of "comfort women", but also with the compensation to victims of forcible conscription, forced labour, genocide, rape, plundering and other atrocities committed during the war. Nevertheless, not only the former "comfort women", but all other victims of war crimes committed by the Japanese military have until now received hardly any compensation for their hardships. As I shall explain, this has its origin in the particularities of Japan's postwar legal system concerning compensation for war damage.

In Japan, there are thirteen statutes which deal with the compensation of war victims. These statutes are the "Public Officials Pensions Act, the "Act for Relief of the War Invalids, the War Dead and the Bereaved Families", the "Act for Relief of the Bereaved Families of those who have not yet repatriated from the War", and acts concerning the compensation of repatriates and statutes associated with the above.

As the terminology of these statutes suggests, almost all of them are relief acts for former military personnel and civilian employees of the military. Although the scope of application of some of these statutes has gradually been enlarged, provision of relief to those who

actively participated in war operations remains the main purpose of these acts.

On the other hand, with the exception of the so-called "Two Atomic Bomb Victims Acts", which consist of the "Act for Medical Treatment of Atomic Bomb Victims" and the "Act for Special Measures for Atomic Bomb Victims", there are no statutes providing for the relief or compensation of civilian victims of the war. In other words, there are no legal provisions for the relief or compensation of civilian war victims, regardless of whether they are Japanese or foreign nationals, with the single exception of the two atomic bomb victims acts. Furthermore, foreign nationals are excluded from the application of the existing relief statutes for former military and civilian personnel of the Japanese army, and the "Two Atomic Bomb Victims Acts" do not apply to foreign nationals who returned to their home country. It is evident that the exclusion of foreign nationals from the application of these relief statutes is a discrimination against the people of Korea and Taiwan which were under Japanese colonial rule at that time.

With the exception of the Democratic People's Republic of Korea, Japan has signed and implemented treaties and agreements with its Asian neighbours that provided state-to-state reparations and economic assistance. However, hardly any compensation has been made to private citizens who sustained sufferings from the war, nor has there been any thorough investigation into the extent of damage the war inflicted on those private citizens. The Japanese government insists that the issue of war compensation has been settled with the reparation treaties and agreements on economic assistance in which the other party agreed to give up further claims for damage. On these grounds, the Japanese government has adopted the view that it will not carry out any investigations or make any compensations to individual war victims. At the same time, the Japanese government has repeatedly expressed a view that these treaty provisions waiving war claims only mean the waiver of the right of diplomatic protection of the country in question and do not in any way affect the rights of individual victims to claim compensation.

6. Further activities of the JFBA and actions that ought to be taken

So far, I have explained the involvement of the JFBA in the issue of war compensation up to the present and mentioned the problems the Japanese law creates for settlement of these issues. I should like to conclude my speech by referring to how the JFBA plans to deal with these problems in the future.

(1) While the JFBA will continue to carry out further fact-finding investigations in order to establish the entire extent of the sufferings caused by the war, it is also determined to urge the Japanese government to conduct its own

investigation and make public any results of such investigation since time is running out for many victims because of their age.

(2) In order to fully respect and ensure the dignity of the human being, it is necessary for Japan to establish a legal system which will enable the war victims to receive satisfactory and reasonable compensation without delay.

Although restricted to former military personnel, Japan enacted a special law that provided compensation to the bereaved families of Taiwanese war dead who served in the Japanese Imperial Army. In 1977, a Taiwanese national who fought for the Japanese Imperial Army during the war filed a suit against the Japanese government, and although the case was dismissed by the Supreme Court, the Japanese Diet enacted a special law, according to which a condolence money of 2 million yen per person was paid to thirty thousand Taiwanese. The amount paid was far less than satisfactory to the families of the victims, but nevertheless this example shows that if only the Japanese government takes decisive action, the enactment of new laws on this issue is indeed possible.

(3) In order to attempt to compensate for the damage caused by the war, it is crucial to examine these issues in conformity with international laws concerning human rights and humanity. The JFBA has made its own efforts to conduct legal examinations in order to enforce measures aimed at compensating war victims; for example the seminar entitled "War and human rights - legal examinations on war compensation issues" held in December last year. The JFBA will continue to carry out further examinations and issue proposals and suggestions concerning this subject.

(4) During the Conference on the Protection of Human Rights, which is scheduled to take place in October this year, the JFBA will hold a symposium on the war compensation issue. The purpose of this symposium is to further promote a better understanding of the issue by its members. At the same time, the symposium will attempt to create a consensus among its members regarding the future policies on this issue the JFBA ought to adopt. While the JFBA is an organization the membership of which is obligatory to all practicing attorneys in Japan, regardless of their principles or beliefs, it considers the protection of human rights as its most important mission.

To conclude, I would like to add that the JFBA considers the settlement of the war compensation issue a matter of utmost urgency. Almost half a century has passed since the end of the war and time is running out for the victims. The JFBA is determined to work toward a fast solution and to make its utmost effort to realize compensation for all war victims.

Thank you very much for your attention.

Fact-finding investigations conducted in Asian countries in 1993
concerning damage and suffering caused by the war

countries visited	period of investigation	number of researchers	contents of the investigation
South Korea	March 20 ~23	4	Hearings with members of bereaved families, the council for volunteer corps and the association of South Korean lawyers
North Korea	May 3~8	2	Hearings from with war victims
China	March 20 ~24	5	On-the-spot investigation at the historiographical institute of Nanking and other places
the Philippines	April 2~10	5	Hearings from "comfort women" and other war victims
Malaysia Singapore Indonesia	April 10 ~21	5	Hearings concerning the genocide of residents and other war atrocities
Australia	Scheduled for July		
Taiwan	Scheduled for July		